

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

EVANGELIN D. DUPREE,

Plaintiff

v.

CORY T. FITZGERALD AND
WERNER ENTERPRISES, INC.

Defendants.

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No. _____

NOTICE OF REMOVAL

Defendants, Cory T. Fitzgerald and Werner Enterprises, Inc. (“Defendants”), by and through counsel, pursuant to 28 U.S.C. §§ 1441, 1446(b)(3), and 1332, hereby give notice that they are removing this civil action from the Circuit Court of Grundy County, Tennessee to the United States District Court for the Eastern District of Tennessee, Winchester Division.

I. The Parties

1. Plaintiff Evangelin D. Dupree (“Plaintiff”) is a citizen and resident of the State of Georgia. (**Exhibit A**, *Complaint* at ¶ 2.)

2. Defendant Cory T. Fitzgerald is a citizen and resident of the State of Illinois. *Id.* at ¶ 3.

3. Defendant Werner Enterprises, Inc. is a corporation organized and existing under the laws of the state of Nebraska with its principal place of business in Nebraska. *Id.* at ¶ 82.

II. Jurisdiction

4. This Court has original jurisdiction over the claims in the *Complaint* pursuant to 28 U.S.C. § 1332(a)(1) because this action involves a dispute between citizens of the State of Georgia, Illinois, and Nebraska.

5. There is complete diversity between the parties to this case.

6. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Defendants are attached as **Exhibit A** which also represents the entire contents of the state court file upon information and belief.

7. The Plaintiff's Complaint alleges that the Plaintiff sustained personal injury for an accident which occurred on September 17, 2021. (*Complaint* at ¶¶ 21-32.)

8. The Plaintiff seeks damages against the Defendants for alleged negligence including compensatory and other economic damages. *Id.* at ¶¶ 53-55. The *ad damnum* of Plaintiff's Complaint seeks "compensatory damages in an amount up to Seven Hundred Fifty Thousand Dollars (\$750,000.00)." *Id.* at "Relief Sought" following ¶ 55.

III. Venue

9. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred here. (*Complaint* at ¶ 1.) Further, Grundy County is located in the Winchester Division of the Eastern District of Tennessee pursuant to 28 U.S.C. § 123(a)(4).

IV. Grounds for Removal

10. On February 3, 2022, the Plaintiff commenced this civil action, Docket No. 9167, against the Defendants in the Circuit Court of Grundy County, Tennessee.

11. Pursuant to 28 U.S.C. § 1446(b)(1), the Defendant is timely removing this action to the United States District Court for the Eastern District of Tennessee at Winchester, as it is being removed within 30 days after service of summons or 30 days of first notice, whichever occurred first.

12. Because there is diversity jurisdiction under 28 U.S.C. § 1332(a)(1), this Court has original jurisdiction over the matter pursuant to 28 U.S.C. § 1441(a) and the action is properly removable pursuant to 28 U.S.C. §§ 1441 and 1446.

13. Pursuant to 28 U.S.C. § 1446(d), Defendants are promptly giving notice of this Notice of Removal to the clerk of the Circuit Court for Grundy County and to counsel for the Plaintiff. The giving of such notice will affect this removal pursuant to 28 U.S.C. § 1446(b)(1). A copy of the state court notice is attached as **Exhibit B**.

14. By removing this action, Defendants do not waive any defenses available to them in federal or state court and expressly reserve the right to assert all such defenses in their responsive pleading.

WHEREFORE, the Defendants request that further proceedings of the Grundy County Circuit Court be discontinued and that this action be removed in its entirety to the United States District Court for the Eastern District of Tennessee at Winchester.

Respectfully submitted this 24th day of March, 2022.

KAY | GRIFFIN, PLLC

By: /s/Daniel C. Headrick

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that on the 24th day of March 2022 the foregoing *Notice of Removal* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular United States mail. Parties may access this filing through the Court's electronic filing system.

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/s/ Daniel C. Headrick _____
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